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IAB # IV 2323204

COUNTY OF LOS ANGELES
SHERIFF'S DEPARTMENT

ADMINISTRATIVE
INVESTIGATIVE SUMMARY

DATE / TIME: August 9, 2012 / 2253 Hours

LOCATION: Crescenta Valley Sheriff Station

IAB #: **IV 2323204**

SUBJECTS: Christopher J. Wargo #[redacted]
Deputy Sheriff
East Los Angeles Station – F.O.R. III

Ramon Gamez #[redacted]
Deputy Sheriff
Crescenta Valley Station – F.O.R.I

WITNESS: Booker T. Hollis #[redacted]
Sergeant
Crescenta Valley Station – F.O.R.I

SYNOPSIS

On August 10, 2012, at approximately 0120 hours, Subject Wargo was arrested by California Highway Patrol (CHP) Officers for driving a motor vehicle while under the influence of an alcoholic beverage after he collided into two unoccupied parked cars with his personal vehicle. At the time of his traffic collision and arrest, Subject Wargo was supposed to be on-duty working patrol at Crescenta Valley Station. Prior to his arrest, Subject Wargo contacted Subject Gamez, who was on-duty at Crescenta Valley Station, and asked him to "log" him onto the Mobile Digital Terminal (MDT) of his assigned unit because he was going to be late. Deputy Gamez "logged" him on as requested, handled calls assigned to Subject Wargo, and updated Wargo's MDT to reflect he responded to the calls for service. The administrative investigation pertaining to Deputy Wargo's arrest is documented under IAB case number IV2318590.

INVESTIGATION

While reviewing the in-services for Crescenta Valley Station, Internal Affairs investigators found Subject Wargo was assigned to work Unit 121 from [redacted] hours to [redacted] hours on August 10, 2012. On that same shift, Subject Gamez was assigned to work Unit 121T1 from [redacted] hours to [redacted] hours. The only other field unit assigned to their reporting districts during that shift was the Field Sergeant (120S, Sergeant Booker Hollis). For more information, see the Crescenta Valley Station Early Morning in-service for August 10, 2012 (**Exhibit A**).

In reviewing the Deputy Daily Worksheets (DDWS) and Unit Details for Sergeant Hollis and Subjects Wargo and Gamez, Internal Affairs investigators found that Subject Gamez was the assisting unit on Subject Wargo's assigned calls. Investigators also found Subject Wargo's DDWS reflected he handled the calls for service he was assigned. Sergeant Hollis was not assigned any calls during the shift. Refer to the Deputy Daily Worksheets and Unit Details for Sergeant Hollis and Subjects Wargo and Gamez for more information **(Exhibit B)**.

Subject Wargo told Internal Affairs investigators he asked Subject Gamez, via text message, to "log" him onto the MDT because he was going to be late for his Early Morning shift at Crescenta Valley Station. He said he texted Subject Gamez from "Rudy's Bar and Grill" in East Los Angeles and he was drunk when he sent the text. He added, when he sent the text, it was still his intention to work his shift. A short time after he left "Rudy's Bar and Grill", he was involved in a traffic collision and arrested by East Los Angeles CHP Officer Camou for driving a motor vehicle while under the influence of an alcoholic beverage. For details regarding Subject Wargo's traffic collision and arrest, refer to the CHP reports **(Exhibit C)**.

IAB Note: Subject Wargo was arrested at approximately 0120hrs. At the time of his arrest, he was "logged" on at Crescenta Valley Station.

Subject Gamez stated he "logged" Subject Wargo onto the MDT at his request. He said he also handled two calls for service that he and Subject Wargo were dispatched and cleared those calls from Subject Wargo's MDT. He also stated after he discovered station personnel were looking for Subject Wargo, he told the Watch Commander, Lieutenant Fitch, that he had logged Subject Wargo onto the MDT earlier in the shift.

Lieutenant Fitch wrote a memo to Captain Silversparre on August 10, 2012, requesting an administrative investigation. In the memo, Lieutenant Fitch stated Sergeant Shoemaker told him, Subject Wargo called Subject Gamez and told him was going to be late for work. Subject Gamez relayed that information to Sergeant Shoemaker. For additional information, refer to Lieutenant Fitch's memo which is attached to the request for IAB Investigation in the Miscellaneous Documents portion of this investigation.

The following narratives are intended only as synopses of the interviews. Additional information and precise wording may be obtained by reviewing the audio recorded interviews and attached verbatim transcriptions.

WITNESS SERGEANT HOLLIS

Sergeant Hollis told Internal Affairs investigators he did not recall Subject Gamez telling him or Sergeant Shoemaker that Subject Wargo was going to be late for his shift. He stated while responding to a vicious animal call that Subjects Wargo and Gamez were dispatched, he saw Subject Gamez leaving the call. He said Subject Gamez told him he was unable to locate the bear, so he (Hollis) made a U-turn and never made it all the way to the call, thus he did not notice Subject Wargo was not at the call. He also said he had no reason to believe Subject Wargo was not in the field because sometime during the shift he queried Subject Wargo's unit status via his MDT and saw that he had been acknowledging and clearing his calls.

IAB Note: Subject Gamez stated he informed Sergeants Hollis and Shoemaker that Subject Wargo was going to be late for his shift.

SUBJECT CHRISTOPHER WARGO

Subject Wargo told Internal Affairs investigators that on the night of the incident, he went to "Rudy's Bar and Grill" for a fundraiser being hosted for an East Los Angeles Station deputy. He said his intention was to stay at the fundraiser for one or two hours, make a donation and go to Crescenta Valley Station for his assigned Early Morning shift. While at the fundraiser, he drank alcoholic drinks that were purchased for him. He said he drank to the point of being intoxicated and "blacked out."

Subject Wargo said he started drinking alcohol at the age of fourteen and considered himself an alcoholic. He explained that he is a "black out" drinker which he described as a form of amnesia that he sometimes experiences when he gets drunk (Refer to pages six and seven of his interview transcripts). He further explained, due to his "black out" state, he did not recall many of the specifics of this incident but he did recall drinking an unknown number of twelve ounce bottles of Bud-Light beer and remembers waking up with the taste of tequila in his mouth however he does not recall leaving the bar or what time he left.

Subject Wargo stated the last thing he remembered from being at the bar was sitting in a booth and asking Subject Gamez, via text message, to "log" him on and notify desk personnel he was going to be late. He said he did not tell Subject Gamez where he was, why he was going to be late or that he had been drinking. He said he texted Subject Gamez his password, radio number and employee number so he could "log" him on.

Subject Wargo added he drove away from the establishment and crashed into two parked cars on Eastern Avenue. He said CHP officers arrived moments later and subsequently arrested him.

Subject Wargo said he knew asking a Department member to "log" him on while he was not at the station was not consistent with the Department training he had received. He also said he now sees that asking Subject Gamez to "log" him on in his absence is categorized as falsifying a Department record.

SUBJECT RAMON GAMEZ

Subject Gamez told Internal Affairs investigators on Thursday night, August 9, 2012, Subject Wargo texted his (Gamez') cell phone and told him he was going to be late for work. Subject Gamez said after briefing, he told Sergeants Hollis and Shoemaker that Subject Wargo was going to be late. A short time later, Subject Wargo texted him his employee number and password and asked him to "log" him onto the MDT. At the time he "logged" Subject Wargo on, he did not know where Wargo was or that he had been drinking. He also did not have approval from a supervisor to "log" on Subject Wargo.

Subject Gamez also stated he was the assisting unit on two calls for service that Subject Wargo was assigned. He said he handled the calls and went back to the station. While at the station, he saw Subject Wargo's patrol car was still in the station parking lot and noticed the light to Wargo's MDT was flashing. He then took it upon himself to clear the calls from Subject Wargo's MDT.

IAB Note: The yellow light flashing on the MDT is indicative of a dispatched call that had not been acknowledged.

After clearing the calls from Subject Wargo's MDT, Subject Gamez tried to contact Wargo by texting and calling his cell phone. When his attempts to contact Subject Wargo were unsuccessful, he became concerned.

Subject Gamez stated he now understands logging a person onto the MDT when they are not present violates the Department policy of falsifying a Department record, but he did not have this understanding at the time he "logged" Wargo on. He did say he understands the reason for having a password that correlates to an employee number is to individualize "logging" onto the MDT, however he still chose to "log" Subject Wargo on.

Subject Gamez said after clearing Subject Wargo's calls, he told the Watch Deputy, Wargo still had not showed up. He then saw Sergeant Shoemaker in the station parking lot and told him Wargo was not there. Sergeant Shoemaker confirmed they were looking for Wargo so Subject Gamez said he went to the Watch Commander's Office and told Lieutenant Fitch he logged Wargo on earlier in the shift.



County of Los Angeles
Sheriff's Department Headquarters
4700 Ramona Boulevard
Monterey Park, California 91754-2169



Leroy D. Baca, Sheriff

July 19, 2013

Deputy Christopher Wargo, #[redacted]
[redacted]

Dear Deputy Wargo:

You are hereby notified that it is the intention of the Sheriff's Department to discharge you from your position of Deputy Sheriff, Item No. 2708A, with this Department, effective the close of business August 9, 2013.

An investigation under IAB File Number IV2323204 and IV2318590, conducted by Internal Affairs Bureau, coupled with your own statements, has established the following:

<u>IAB File Number 2318590</u>

1. That in violation of Manual of Policy and Procedures Section(s) 3-01/030.10, Obedience to Laws, Regulations, and Orders [as it pertains to 23152 (a) C.V.C., Driving Under the Influence of Alcohol or Drugs, and/or 23152 (b) C.V.C., Driving Under the Influence of Alcohol or Drugs blood alcohol concentration .08% or greater, and/or 23578 C.V.C. blood alcohol concentration over .15%]; and/or 3-01/025.45, Safety of Firearms; and/or 3-01/030.05, General Behavior; on or about August 10, 2012, while off duty, you drove your personal vehicle while under the influence of alcohol and collided with two parked vehicles. California Highway Patrol personnel responded to the scene and observed that you displayed symptoms of being under the influence of alcohol. California Highway Patrol personnel administered field sobriety tests to which you performed poorly. You submitted to breath tests using a preliminary alcohol screening device which resulted in a reading of .183% and .184% blood

alcohol concentration. You were subsequently arrested, booked at the East Los Angeles Highway Patrol Station, and allowed to provide a breath sample using a breathalyzer. Your breath sample registered .20% and .19% blood alcohol concentration. You admitted you drank alcoholic beverages including beer and tequila until you blacked out. You drank prior to driving your vehicle. You stated your weapon was in your car, but you did not know where. It is presumed that due to the amount of alcohol concentrated in your blood, .20% blood alcohol concentration, you were unable to exercise reasonable care, and/or control of a firearm. You pled nolo contendere in Alhambra Superior Court on December 5, 2012, to 23152 (b) Driving Under the Influence of Alcohol or Drugs blood alcohol concentration .08% or higher. You were placed on summary probation for three years, ordered to pay fines and restitution, assigned 13 days of community service, and ordered to attend alcohol education courses. You failed to adhere to the Core Values of the Department as you failed to apply wisdom and use common sense when you willfully drove your vehicle while intoxicated; and/or conducted yourself in a manner which caused undue embarrassment to, and/or damaged the reputation of the Department; and/or brought discredit to yourself and/or the Department.

IAB File Number 2323204

1. That in violation of Manual of Policy and Procedures Section(s) 3-01/050.50, Absence; and/or 3-01/100.35, False Information in Records; and/or 3-01/000.13, Professional Conduct; on or about August 9, 2013 through August 10, 2013, you failed to assume the responsibilities of your position when you were absent without leave and failed to make a timely notification to your supervisor. Your conduct was not consistent with the Core values of the Department as you drove a vehicle while intoxicated, creating a hazard to yourself and the public. You failed to exercise integrity and notify your supervisors of your absence instead of willfully seeking help from Deputy Ramon Gamez to log you onto the Mobile Digital Terminal, effectively aiding in creating a false official record; and/or potentially jeopardizing the safety and welfare of the public.

Additional facts for this decision are set forth in the Disposition Worksheet, Investigative Summary and Investigative Packet which are incorporated herein by reference.

You may respond to the intended action orally or in writing. In the event that you choose to respond orally to these charges, you have already been scheduled to meet with Chief Kevin Goran, on August 9, 2013, at 1100 hours, in his office, which is located at 4700 Ramona Boulevard, Monterey Park, California 91754. If you are unable to appear at the scheduled time and wish to schedule some other time prior to August 9, 2013, for your oral response, please call Chief Goran's secretary at [redacted], for an appointment.

If you choose to respond in writing, please call Chief Goran's secretary to cancel your scheduled appointment, and send your response to the facts contained in this letter to Chief Goran's office by no later than August 9, 2013.

Unless you are currently on some other type of authorized leave, pursuant to Rule 16.01 of the Los Angeles County Civil Service Commission Rules, effective immediately, you are on paid administrative leave which will continue during the fifteen (15) business days you have to respond to the intended discharge or until the conclusion of your pre-disciplinary hearing. If you are presently on an authorized leave, that leave will continue during the fifteen (15) business days you have to respond to the intended discharge, or until the conclusion of your pre-disciplinary hearing.

Failure to respond to this Letter of Intent within fifteen (15) business days will be considered a waiver of your right to respond and will result in the imposition of the discipline indicated herein.

If you did not receive the investigative material on which your discipline is based at the time you were served with this correspondence, you may contact the Internal Affairs Bureau at [redacted], to obtain a copy of the case file.

The Sheriff's Department reserves the right to amend and/or add to this letter.

Sincerely,

LEROY D. BACA, SHERIFF

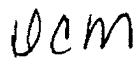
Alicia E. Ault, Captain
Internal Affairs Bureau

Note: Attached for your convenience are excerpts of the applicable areas of the Manual of Policy and Procedures.

AEA:PMP:cj

c: Advocacy Unit
Employee Relations Unit
Chief Kevin Goran, Central Patrol Division
Internal Affairs Bureau
Office of Independent Review (OIR)
(File #2323204 and #2318590)





CIVIL SERVICE COMMISSION

COUNTY OF LOS ANGELES

June 7, 2017

FINAL COMMISSION ACTION

Subject of Hearing: *Petition of* ***CHRISTOPHER WARGO*** *for a hearing on his* ***discharge****, effective August 9, 2013, from the position of Deputy Sheriff, Sheriff's Department,* **Case No. 13-373**.

The Civil Service Commission, at its meeting held on May 31, 2017 approved findings in the above-entitled case. The petitioner's objections were overruled.

Since a copy of these findings has already been provided to all the parties, we have enclosed a copy of the signed formal order of the Commission for your records.

Anyone desiring to seek review of this decision by the Superior Court may do so under Section 1085 or 1094.6 of the Code of Civil Procedure as appropriate. An action under Section 1094.6 can only be commenced within 90 days of the decision.

Lawrence D. Crocker
Executive Director

Enclosure

c: Christopher Wargo
Emily Suhr
David Moore
Elizabeth Moreno

BEFORE THE CIVIL SERVICE COMMISSION OF THE

COUNTY OF LOS ANGELES

In the matter of the ***discharge****, effective August 9, 2013, from the position of Deputy Sheriff, Sheriff's Department, of* **CHRISTOPHER WARGO** **(Case No. 13-373)**	))))))))	ORDER OF THE CIVIL SERVICE COMMISSION

On May31, 2017, the Civil Service Commission of the County of Los Angeles overruled the Petitioner's objections. The Commission adopted as its final decision to sustain the Department in the discharge.

Dated this 7th day of June, 2017.

Z. GREG KAHWAJIAN, President

DENNIS F. HERNANDEZ, Member

NAOMI NIGHTINGALE, Member

STEVEN AFRIAT, Member

JOHN DONNER, Member

OCM

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CIVIL SERVICE
COMMISSION

LOS ANGELES COUNTY CIVIL SERVICE COMMISSION

In the Matter of the Appeal of CHRISTOPHER WARGO Appellant and LOS ANGELES COUNTY SHERRIFF'S DEPARTMENT Respondent	Case No.: 13 – 373 FINDINGS OF FACT, CONCLUSIONS OF LAW, AND RECOMMENDATION

APPEARANCES

For the Appellant: Green and Shinee, APC
Amanda J. Waters, Esq.
16055 Ventura Blvd., Suite 1000
Encino, CA 91436

For the Respondent:
Collins Collins Muir and Stewart, LLP
David C Moore,Esq.
1100 El Centro St.
South Pasadena, CA 91030

Hearing Officer: ELIZABETH A. MORENO, ESQ.

Hearing Dates: November 18, 2014; May 8, 2015; June 15, 2015; July 29, 2015.

ISSUES

1. Are the allegations contained in the Department's letter of August 9, 2013 true?
2. If any or all are true, is the discipline appropriate?

3. Did the Department violate the Petitioner's pre-deprivation due process (Skelly) rights as alleged?

4. If so, what is the appropriate remedy?

EXHIBITS

Appellant's exhibits admitted into evidence:

Exhibit A
Guidelines for Discipline
Exhibit D
Performance Evaluation
Exhibit E
Commendations
Exhibit F
Lifesaving Award
Exhibit G
Administrative Summary
Exhibit H
General Behavior Policy

Respondent's exhibits admitted into evidence:

Exhibit 1
IAB File 2323204 Re: Wargo
Table of Contents
Audio/Video Tracking Sheet
Personnel Investigation Report
Investigative Summary
Transcribed Interviews
>Witness Booker Hollis
>Christopher Wargo
>Ramon Gamez
Exhibits
Miscellaneous Documents

Exhibit 2
IAB File 2318590 Re: Wargo
Exhibit 3
Transcripts of IAB Interviews in IAB File Number 2318590
Exhibit 4
Letter Dated August 9, 2013 to Wargo

BACKGROUND

The appellant was notified on July 19, 2013 with a letter of intention to discharge and on August 9, 2013 was served with a letter of discharge. He was terminated from his position as deputy sheriff for violation of the following policies:

1. That in violation of Manual of Policy and Procedures Sections) 3-01/030.10, Obedience to Laws, Regulations, and Orders [as pertains to 23152 (a) C.V.C., Driving Under the Influence of Alcohol or Drugs, and/or 23152 (b)- C.V.C., Driving: Under the Influence of Alcohol or Drugs blood alcohol concentration .08% or greater, and/or 23578 C.V.C. blood alcohol concentration over .15%]; and/or 3-01/025.45, Safety of Firearms; and/or 3-01/030.05, General Behavior;

2. That In violation of Manual of Policy and Procedures Section(s) 3-01/050.50, Absence; and/or 3-01/100.35, False Information in Records; and/or 3-01/000.10, Professional Conduct; on or about August 9,2Q12 through August 10, 2012, you failed to assume the responsibilities of your position when you were absent without leave and failed to make a timely notification to your supervisor. Your conduct was not consistent with the Core values of the Department as you drove a vehicle while intoxicated, creating a hazard to yourself and the public.

WITNESSES ON BEHALF OF THE RESPONDENT

Testimony of Sgt. Eric Barron

Testimony of Deputy Ramon Gamez.

Testimony of Sgt. Hollis

Testimony of Kevin Goran

CHP Officer [redacted]

Testimony of Sgt. Eric Barron

The witness has been with the Sheriff's Department since 1989 and is currently a sergeant with the LA County Sheriff's Department. Since 2012 he has been with the internal affairs Bureau and has conducted 40 interviews and prior to that at least 30 interviews at the men's central jail. He performed and prepared the investigative summary for the Appellant incident of driving under the influence and false records.

On April 11, 2013 Appellant testified that there was a fundraiser at a bar where he drank alcohol. After a few beers he sent a text message to Gamez and asked him to log him on to the MDT because he was going to be late for his shift and gave him his employee ID number and password. He admitted that when he sent the text messages he was feeling the effects of alcohol. Appellant continued to drink to the point that he blacked out, meaning that he had no memory of events while he was under the influence of alcohol . As part of the investigation he obtained the CHP arrest report which indicated that Appellant had a .183 and a .184 preliminary alcohol screen. Appellant could not remember where he placed his weapon but CHP officer Mccallum found it near the front passenger seat. After he completed the interviews and the summary he submitted the reports to the lieutenant who made conclusions as to any violations.

Eric Baron is a credible witness and reliable in gathering facts. He interviewed all of the witnesses and collected the reports, but did not draw any conclusions from his investigation.

Testimony of Ramon Gamez

The witness has been with the Sheriff's Department for 6 to 7 years and is currently in the Crescenta Valley station as a patrol deputy.

In June 2012, on the night that Appellant should have reported it to his shift he received several text messages from him: that he was running late and the next text message asked him to log him on to the mobile digital terminal, followed with a message supplying him with Appellant's employee number and password. There were 2 calls to Appellant's terminal but Gamez handled them. The calls were about spotting a bear which is a priority. Appellant did not respond and he did not see him so he sent Appellant 5 or 6 messages and ask him "where

are you", but he received no response. After returning from the calls he went into the watch commander's office to tell the watch commander that he had logged on for Appellant because he had received a text message from Appellant asking him to log on. The watch commander said he had received a call indicating that Appellant had been arrested for driving under the influence. [redacted]

Gomez was credible and was forthright that he covered up for Appellant and received discipline for it.

Testimony of Sergeant Hollis

Sergeant Hollis has been a Los Angeles County deputy sheriff for 31 ½ years, since August 1983, and is currently the watch Sergeant at Crescenta Valley station. On the night in question, Appellant was logged on to the MDT but he did not see him. A no-show does have ramifications, if a backup is necessary the watch Sergeant has to go out of the area to call for service. If Appellant was not coming in he would have held someone over for overtime to cover his shift.

The service calls that Appellant should have responded to were bear calls which is a priority. It turns out that the deputy did not see a bear and left the scene.

As the watch Sergeant he takes his job seriously and his testimony was credible. A call about a bear is a serious matter and takes priority. If Appellant was not going to report for his shift he would have held a deputy over for overtime or go out of the area to obtain a deputy to cover his shift. Even though the Crescenta Valley station may appear slow in the early morning the failure to report to work is a serious matter.

Testimony of Captain Kevin Goran

The captain is with the Los Angeles County Sheriff's department. At the time of the incident he was the division chief.

He has disciplined approximately 100 Sheriff deputies. He issued the letter of termination dated August 9, 2013. Prior to administering the discharge he read all the information, reports, before he came to a decision. He spent approximately 6 to 10 hours reviewing documents prior to his testimony. Prior to coming to a decision he spoke to the deputies who performed the investigation. He came to the conclusion that Appellant violated policies.

Appellant violated the general behavior in that he did not safely secure his firearm. He was arrested for drunk driving and he indicated that he blacked out. He cannot remember where he left the gun but the gun was found in the passenger seat. Appellant indicated his firearm was in the trunk.

The facts of the incident mandated that Appellant be discharged because he made bad decisions: drinking alcohol before going to work; texting another employee to log in for him; blacking out; plowing into cars causing property damage; arrested for a DUI; and failing to secure his weapon by placing it in the passenger seat of the car. He failed to show up to work when scheduled. In allowing his partner to log him onto the computer, this told dispatch that he was in the field. As a result, if calls came in there was no one to cover them. Two calls came in for Appellant which Gamez handled the calls and cleared the computer. Appellant put Gamez into jeopardy. If Appellant was logged on that meant that the calls would be responded to. As a result, he violated the policies and procedures of false information of records

provision. Further, the deputies should never share their password so another deputy can log them onto the mobile Digital terminal.

Because Appellant had six violations of policies and procedures and given the totality of the circumstances he was terminated.

The captain states that driving under the influence can result in a 30 day suspension and progressive discipline but given the totality of the circumstances progressive discipline was not appropriate. OIA agreed with the termination. Appellant's post-accident actions of [redacted] maintaining [redacted] and his truthfulness and honesty during internal affairs interviews was not a mitigating factor in his termination.

The captain reviewed Appellant's personnel file. Performance is a factor considering the circumstances, but they were not considered in his termination. Further, education-based discipline was not at issue in this case considering the circumstances.

The captain was credible. He imposed the discipline of termination given Appellant's violation of six policies of the Los Angeles Sheriff's department. Most noteworthy in terminating Appellant was his lapse of judgment. Appellant was remorseful but this lapse in judgment caused him to terminate him.

Testimony of [redacted]

[redacted] is a California Highway Patrol, and has been a CHP for 5 years. Since August 2012 he has been in the East Los Angeles station. In July 2010 while at the Academy he received training regarding collisions, accidents and giving field sobriety test.

He responded to the call on August 10, 2012 regarding Appellant. Appellant was driving the car and 2 cars were sideswiped. Appellant's weapon was in the front seat of the car, he secured the gun and took out the magazine. Coming from Appellant was a strong odor of alcoholic beverage, slurred speech and unsteady gait.

He reviewed the test results of the breathalyzer. Appellant was respectful and not belligerent.

Officer McAllister came across as a credible witness and his testimony was forthright.

WITNESSES ON BEHALF OF APPELLANT

Deputy [redacted]

Lieutenant [redacted]

Deputy [redacted]

Sergeant [redacted]

Deputy [redacted]

Sergeant [redacted]

Lieutenant [redacted]

Deputy [redacted]

Deputy [redacted]

Appellant Christopher Wargo

Testimony of Deputy [redacted]

Deputy [redacted] is currently in the operations department and has been there for 3 years. He is Wargo's [redacted] He is involved in the [redacted] and is a [redacted]

[redacted] He received a call from Wargo one week after the incident and they went to the [redacted] Wargo keeps in contact with him on a daily basis. Wargo goes to the [redacted] He has daily contact with Wargo with either phone calls or text messages. [redacted] Wargo works with others and shepherds in new people. Wargo has stayed [redacted]

He acknowledges that being a deputy is a high stress position. This could cause Wargo [redacted] Wargo has undergone a large amount of stress such as having [redacted] getting [redacted] and being terminated from his job and [redacted] However through all of this he has maintained [redacted]

The witness in essence, was pleading that Wargo should have his job returned to him because of his [redacted] During his testimony not only did the witness hold back tears but Wargo broke down and cried. Even though he was credible [redacted] came across with an attitude and very defensive.

Testimony of Lieutenant [redacted]

He has been with the LA County Sheriff's Department for 29 years. As a character witness he testified that Wargo is a dependable person, a role model who he gave assistance to, honest, and influential among his peers. He was the watch commander on the day of the accident and drove out to the location of the accident. When he saw Wargo, he was cooperative and made sure that the firearm was safe.

He saw Wargo when he had a [redacted] However he has a strong resolve. It was not mandated by the Sheriff's Department, but he [redacted] Appellant is happier now that he is [redacted] and has [redacted]

He states on that day of the accident that Appellant was not dependable and was not a role model. When he appeared at the accident scene he observed that Appellant was under the influence of alcohol. He had a strong smell of alcohol and his eyes were watering. He took a breathalyzer and it showed that he was under the influence of alcohol. Not only was the public at risk but Appellant was at risk for driving under the influence. He does not know what happened to Appellant's firearm he can only assume that Appellant's supervisor secured it at the scene.

Law enforcement officers are held to the same standard as the public not a higher standard. It is not okay for the deputies to log each other on. He has had experience that deputies have logged each other on but he has never had an experience where one deputy logged another deputy on, but that Deputy did not appear for work.

Appellant was a field deputy and it is a high stress job. Since he was assigned to the East LA station the violence in the area and the number of calls he has to respond to makes it a high stress position. He is unaware of any steps that Appellant took prior to the incident to control his drinking. He agrees that Appellant at any time could relapse.

[redacted] testimony was credible and he is straightforward when he states Appellant was a good employee. However, he does confirm that Appellant drinking was a problem, and the public was in danger from his actions. However, after Appellant [redacted] on his own he has become an upstanding person.

Testimony of Detective [redacted]

This character witness is a detective for Los Angeles Sheriff's department. He has been a detective for 1 ½ years in the East Los Angeles office. He has been with the Sheriff's Department for 14 years. From 2008 until 2009 he was Appellant's [redacted] Appellant helped out people and is 110% trust worthy and honest. He sees the reality and harm that alcohol may do. Appellant has turned around and has become an advocate not to drink. Appellant will not jeopardize his family and he has no concerns with working with Appellant.

This witness is credible but he is purely a character witness. He confirms that Appellant will never jeopardize his family, is a positive role model not to drink now that [redacted] This witness did not know any of the facts of the accident and could not testify to that issue.

Testimony of Sergeant [redacted]

This character witness has been with the Los Angeles County Sheriff's Department for 20 years. During her tour of duty she has been in custody, patrol at different stations, and became a Sergeant in East Los Angeles. She has been a sergeant for 7 years.

Beginning In 2004 she and Appellant worked together at Twin Towers for 2 years. In 2009 , while at the East Los Angeles station she supervised him. He was an excellent officer, dedicated and had no issues with his honesty. She would work with him again.

After he was terminated she checked on him and his family. He has changed because he realized he has a [redacted] and had to take care of his family.

The Sergeant confirms that drinking before a shift, having your partner log you into the MDT and operating a motor vehicle while intoxicated are contrary to the department's policy.

The stress of the job got to Appellant and the stress will not go away. But the department has programs for deputies to deal with the problems.

As his former supervisor she is credible because she confirmed that he had a [redacted] but has now sought help and got it under control.

Deputy [redacted]

She has been all Los Angeles Sheriff Deputy for 11 a half years. She was at the East LA station, where she met Appellant and then [redacted]

However, he is now [redacted] He supports his family, does not drink, [redacted] and helps others. He is a better person.

He has been under a lot of stress since both of [redacted] his [redacted] but he is able to cope with it because he has support of his family and faith.

She is credible and that it is understandable that she testifies favorably since she is the Appellant's [redacted]

Sergeant [redacted]

He has been with the Los Angeles county Sheriff's Department for 15 years. He has done the tour of duty beginning with twin towers, East Los Angeles station, and City Of Industry Station. He is a friend and a colleague of Appellant. He was with Appellant from 2001 until 2004 at Twin Towers and from 2008 until 2011 at the East Los Angeles station. He knows Appellant as a thorough, trustworthy and dependable person. He has observed changes his more responsible and attentive.

The witness's [redacted] He admits that this is a high stress job and that the public safety is at risk.

This character witness is credible but he does not know the details facts of the incident. However, he has seen a change from before the accident and after the accident in that he is now sober.

Testimony of Lieutenant [redacted]

He is the [redacted] of the appellant Christopher Wargo. He has been an LA County Sheriff for 20 years. In November 2006 he became a lieutenant. He had observed him social drinking prior to the accident. Since the accident he has not drank and has reached out to [redacted] As soon as the accident occurred he did not wait for the Sheriff department to do something but immediately reached out to [redacted] family and friends.

He has been under an incredible amount of stress. The major stressor has been having [redacted] In the line of duty his uncle was [redacted] The appellant also has had stress, which caused him to begin drinking, when his then [redacted] convinced him that he was the [redacted] It turns out that the appellant's then partner at Twin Towers was the [redacted] Now, the appellant has a support system consisting of his [redacted]

He is now focused on others instead of himself. He had a big lapse in judgment and thank goodness no one was hurt. He has no contact with his drinking buddies. The family now is a lot closer. The family does not want to see it happen again and the family has taken responsibility.

Even though he was the appellant'[redacted] his testimony was positive and straightforward. In the past the appellant was making excuses for his drinking consisting of girlfriend problems and family deaths. Now he has taken responsibility and is no longer making excuses and is seeking help.

Testimony of [redacted]

Deputy [redacted] worked with the appellant in the East Los Angeles station. The witness has been a deputy sheriff for 12 years. He was his backup partner on and off for about 3 to 4 [redacted]

Appellant is always helping out and guiding him. He is more of a mentor. He is always there when he has a question and advises on to handle situations. The appellant's drinking did not carry over to the job. In his opinion the drinking was caused by a combination of family problems as well as a high stress job. Now, The Sheriff's Department stress is getting worse and they are scrutinizing deputies more.

He is credible as a character witness but did not have any testimony in regards to the accident.

Testimony of [redacted]

He has been a deputy at the East Los Angeles station from 2008 until the present. Up until the time the appellant left, they have been partners at various times. The appellant has performed his duties and he is honest. Prior to the incident it was difficult to be around him. However, [redacted] The witness has no qualms in working with him.

This character witness did not have much to add except to vouch for the appellant's honesty.

Testimony of the appellant Christopher Wargo

From [redacted] he was a custody assistant in the Twin Towers. In 2001 he joined the Sheriff's Department. His tours of duty consisted of Twin Towers, East LA station, and Crescenta Valley.

His [redacted] was a sheriff as well as his [redacted] but his [redacted] was killed in 1995 in the line of duty. [redacted] Initially, Appellant considered himself a [redacted] However, in 2005 he became a [redacted]

In 2005 his [redacted] increased. This was caused by his [redacted]

[redacted]

On the night of the incident, his shift began at 2300 hrs. He went to a bar in East LA for a fundraiser. His personal gun was in the vehicle locked in the trunk. He does not know how many drinks he had but if he could guess it was probably 2 to 3 before he texted his partner and told him that he would be 30 minutes late, and asked his partner to launch him on to the MDT. He had every intention to report to work. When he text his partner he was feeling the effects of the alcohol but still could report to work. However, after he informed his partner he did not sober up and did not stop drinking. The drinking continued until he blacked out. The next thing he remembers is that the airbag was deployed and the sound of an car alarm. He was taken home.

He takes the responsibility of the actions of his partner. He asked his partner to log him on. Gamez his partner took further steps to answer his calls. He takes responsibility for what Gamez did. However, he did not ask his partner to answer his calls. He only asked his partner to check him in at the front desk. He could not perceive that Gamez, his partner would answer calls. However, he finally admitted that he implicated his partner to cover his calls since he asked his partner to log him on. He realized that he caused his partner to have a 20 day suspension and he apologized to his partner many times.

The next day he reported to the la Crescenta station. He entered the conference room with the sergeants and watch commander. He was relieved of duty.

He does not know where he was headed to after he left the bar. Where the incident occurred was not on his way to work. After the incident, he was afraid his [redacted] was going to leave him. He had conversations with his [redacted] who is a [redacted] his [redacted] and spoke to his [redacted] On that Monday he went to a [redacted] He called [redacted] In the last 3 years he has gotten married and has had [redacted] children. [redacted] His [redacted] His personal stress is greater than the work events.

A field deputy is a very stressful job because you use firearms, engage in shootouts, and are under attack. The appellant indicates he will still [redacted] even if he does not get his job back.If he does go back to the Sheriff's Department he will control his [redacted] He has people in place to help him with the unknown stressors. He has his [redacted] who will help him deal with stressors. He has not had [redacted] but does not know whether he will have a [redacted] If he does, as he [redacted]

The appellant was credible. He admits that he has a [redacted] He is truly remorseful as to the events that occurred. However, even though he realizes his shortcomings, I question his judgment. He became very defensive and stated many times that he never asked his partner to cover his calls. He could not see that asking his partner to log him on would result in the next step of his partner covering his calls. However, in a subsequent day of testimony he took full responsibility for the actions of his partner.

DISCUSSION

The department has sustained its burden of proof on the following charges:

> Manual of Policy and Procedures Sections) 3-01/030.10, Obedience to Laws, Regulations, and Orders [as pertains to 23152 (a) C.V.C., Driving Under the Influence of Alcohol or Drugs, and/or 23152 (b)- C.V.C., Driving: Under the Influence of Alcohol or Drugs blood alcohol concentration .08% or greater, and/or 23578 C.V.C. blood alcohol concentration over .15%]; and 3-01/030.05, General Behavior; Manual of Policy and Procedures Section(s) 3-01/050.50, Absence; and/or 3-01/100.35, False Information in Records; and/or 3-01/000.10, Professional Conduct.

Appellant admitted that he drank alcohol to a blackout state and operated his vehicle under the influence of alcohol and thus crashed into other vehicles. Appellant indicated he pled nolo contendere to violating vehicle code section 23152 (B) having blood alcohol concentration above the legal limit, was arrested by the CHP, and failed to appear for his shift and created a false record by soliciting the help of another deputy to log him into the MDT by giving his password to the deputy so that it would appear Appellant was present for his shift. Appellant took full responsibility for violating the above-mentioned sections of the manual of policy and procedures and driving under the influence of alcohol.

Is the discipline appropriate?

The departments discipline was excessive as based on their disciplinary guidelines. The guidelines state that imposing discharge the following should be considered:

> 1) Prior discipline has not corrected the behavior; 2) the conduct renders the deputy immediately unsuitable for further employment, or 3) where it can be reasonably

anticipated and demonstrated that a lesser disciplinary action will not correct the employees conduct.

The department has not carried its burden of proof as to discharge discipline. There has been no prior discipline for any behavior related to alcohol, it was not demonstrated that the conduct rendered the deputy immediately unsuitable for further employment, and it has not been demonstrated that a lesser discipline will not correct the employees conduct.

Here, the primary consideration is whether the employees conduct resulted in or will result in "harm to the public service" if repeated. Hankla v. Long Beach Civil Service Commission (1995) 34 Cal app 4th 1216, 1222 – 1223. There is no evidence to show that his alcoholic behavior has been repeated to cause harm to the public. The department's witnesses testified that Appellant has accepted responsibility for his conduct. He was cooperative with the CHP on the scene and cooperative with the department executives on the scene. Lieutenant [redacted] testified that Appellant was remorseful and was apologizing for his conduct on the night it occurred. Goran testified that he believed that Appellant was being truthful in his statements to internal affairs.

The appellant had many witnesses come forward such as Sergeant [redacted] Sergeant [redacted], lieutenant [redacted] who testified that he is a solid deputy, handles situations and has a passion for his job. They all would have him as a partner again. He has taken remedial steps to deal with is [redacted] He has admitted he is an [redacted] sought out Sergeant [redacted] to be his [redacted] meeting the day after his DUI. He continues to attend [redacted] He has maintained daily contact with Sergeant [redacted]

[redacted] He has an [redacted] As testified by his [redacted] he has taken steps to reestablish and rebuild his relationships with his family and they are now part of his support system. As testified by Detective [redacted] and Deputy [redacted] Appellant has done a complete turnaround and does not engage in drinking with his buddies. He is a big advocate of not drinking. Appellant offers [redacted]

He has been employed by the Los Angeles County Sheriff's Department since February 1999 . [redacted] Further, he received various commendation memos within the last 5 years prior to his DUI incident with the most recent being in February 2012. In June 2010 he received his lifesaving award. [redacted] he had no prior discipline for any alcohol related offenses. the department did not consider his personnel record , suspensions or reviews but only that he violated 6 provisions of the manual of policy and procedures.

This was his first alcohol related incident and according to him will be his last. As he testified, [redacted] He admits that the job as a deputy sheriff has a lot of unknown stressors but that he will deal with them through his support system and not turn to the bottle.

Did the department violate Appellant's constitutional rights of due process as set forth in Skelly v. State Personnel Board (1975) 15 Cal 3rd 194?

The evidence substantiates that Appellant's Skelly rights were violated in regards to the violation of Safety Of Firearms provision. The law is well settled that permanent public employees are entitled to the due process protections of a meaningful pre–disciplinary procedure, consisting, at a minimum, of notice of all the charges against him, the evidence upon which the charges are based, and an opportunity to respond to the charges and evidence prior to the imposition of the penalty. Skelly, supra, 15 Cal 3rd 194, 215. The department was required to advise Appellant of all the reasons for his discharge and the evidence it relied upon. Failure of the department to fully advise deputy Appellant of all the reasons for his discharge and the evidence it relied upon is a violation of due process.

Appellant never received any notice that the department had evidence that his firearm was located in the passenger compartment of his vehicle. Appellant stated during his internal affairs interview that he did not recall the location of the firearm, but recalled it last being in the trunk of his vehicle. In invoking discipline the commander relied on the CHP officers statement that the firearm was located in the passenger compartment of his vehicle.

An employee is entitled to notice of the employer's reason for the discipline and an explanation of the evidence. The documents received by the appellant provide no explanation or notice that the department had concluded Appellant's gun was located in the passenger compartment of the vehicle because it failed to provide transcripts of the CHP officer's interviews. In the letter of intent, disposition work sheet, police report, and other documents, the department failed to mention the interviews of CHP officers or how it obtained specific evidence about the

location of the firearm. Prior to Appellant's interview in April 2013 he was provided with an administrative rights form placing him on notice of the nature of the investigation. The department only notified him of some of the policies sections for which he was under investigation which were obedience to laws, regulations and orders; use of alcohol performance standards; and false information in Records. Prior to the start of the 2nd internal affair interview, the department did not provide any additional policies or laws that were violated and did not state in his administrative rights form that the investigation was related to Violation Of Safety Of Firearms.

If his Skelly rights were violated and the appellant's discharge was in appropriate, then what is the appropriate remedy?

The department carried its burden of proof as to all the violations except for the Firearm Safety Violation because his *Skelly* rights were violated. In light of the appellant's remorsefulness and change in behavior, the discipline to discharge was inappropriate. In reviewing the Sheriff department's guidelines, suspension without pay is appropriate. As stated under the policy of discipline of suspension:

> a suspension that results from a criminal complaint charge filed against the employee, the period of suspension may exceed 30 days and continue until final adjudication of the matter.

In this case the final adjudication of the driving under the influence charge was adjudicated on December 5, 2012. Accordingly, deputy Appellant is suspended without pay until December 5, 2012.

Findings of Facts

1. Appellant became a deputy with the Sheriff's Department on February 4, 1999. He acknowledged receipt of the department's manual of policy and procedures and acknowledged that he was required to comply with the Department's Manual and obey the "Core Values" of the department.

2. Appellant admitted that he drank alcohol to a blackout state and operated his vehicle under the influence of alcohol and thus crashed into other vehicles.

3. Appellant admitted that he pled nolo contendere to violating vehicle code section 23152 (B) having blood alcohol concentration above the legal limit and was arrested by the CHP and pled nolo contendere on December 5, 2012.

4. Appellant admitted that he failed to appear for his shift.

5. Appellant admitted that he created a false record by soliciting the help of another deputy to log him into the MDT by giving his password to the deputy so that it would appear that he was present for his shift.

6. Appellant was not advised of the charge of firearm safety violations and the evidence upon which the charge was based.

CONCLUSIONS OF LAW

1. The Department has met its burden in proving that appellant was in violation of the Manual of Policy and Procedures Sections 3-01/030.10, Obedience to Laws, Regulations, and Orders [as pertains to 23152 (a) C.V.C., Driving Under the Influence of Alcohol or Drugs, and/or 23152 (b)- C.V.C., Driving: Under the Influence of Alcohol or Drugs blood alcohol concentration .08% or greater, and/or 23578 C.V.C. blood alcohol concentration over .15%];

2. The Department has met its burden in proving that appellant was in violation of the Manual of Policy and Procedures 3-01/030.05, General Behavior;

3. The Department has met its burden in proving that appellant was in violation of the Manual of Policy and Procedures Manual of Policy and Procedures Section(s) 3-01/050.50, Absence;

4. The Department has met its burden in proving that appellant was in violation of the Manual of Policy and Procedures 3-01/100.35, False Information in Records;

5. The Department has met its burden in proving that appellant was in violation of the Manual of Policy and Procedures and/or 3-01/000.10, Professional Conduct.

6. The Department has not met its burden of proof that the appellant was in violation of the manual of policy and procedure section 3-01/025.45, Safety of Firearms.

7. The department has not met its burden of proof that the discipline of discharge was appropriate under their "Guidelines For Discipline".

RECOMMENDATION

The hearing officer recommends the discharge be reduced to a suspension without pay until December 5, 2012, the final adjudication of the appellant's DUI criminal matter. The suspension is based upon the Los Angeles County Sheriff's Department Guidelines For Discipline.

This recommendation is based upon the following mitigating factors:

This is appellant's first alcohol related discipline. His prior [redacted]

The appellant has taken remedial steps to deal with [redacted] He has admitted he is [redacted] sought out Sergeant [redacted]

[redacted] He has maintained daily contact with Sergeant [redacted] For the past [redacted] He has an extensive support system in place to help him deal with [redacted] he has taken steps to reestablish and rebuild his relationships with his family and they are now part of his support system. Appellant has done a complete turnaround and does not engage in drinking with his buddies. He is a big advocate of not drinking. Appellant offers his support to other coworkers who are struggling with the same alcoholic issues. He understands that to take an alcoholic drink would be like committing suicide

Dated: October 23, 2015

Elizabeth A. Moreno, Esq.



County of Los Angeles
Sheriff's Department Headquarters
4700 Ramona Boulevard
Monterey Park, California 91754-2169



LEROY D. BACA, SHERIFF

August 9, 2013

Deputy Christopher Wargo, #[redacted]

Dear Deputy Wargo:

On July 19, 2013, you were served with a Letter of Intention indicating your right to respond to the Sheriff's Department's pending disciplinary action against you, as reported under File Number IV 2323204 [redacted]. You were also advised of your right to review the material on which the discipline was based.

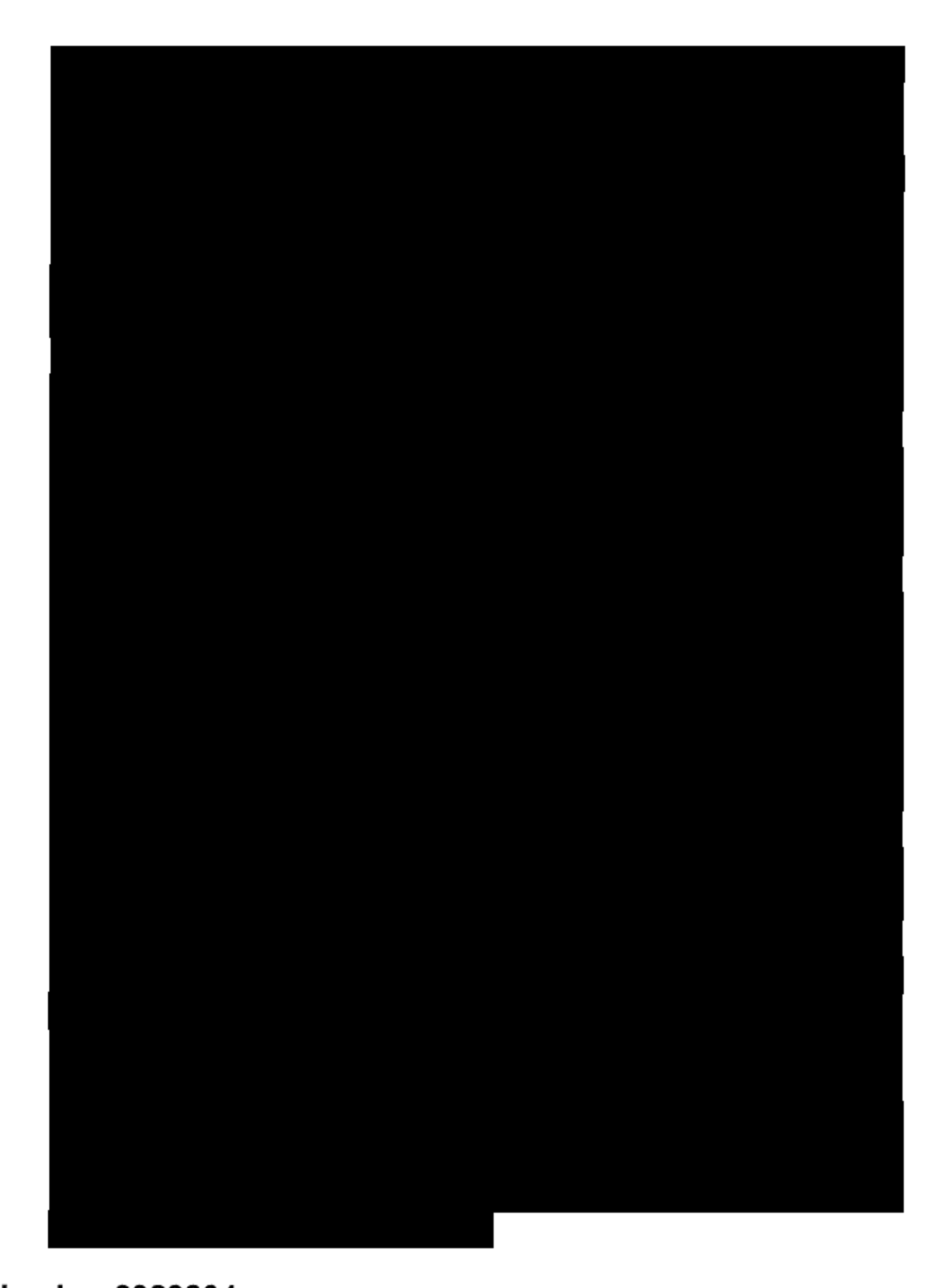
You did exercise your right to respond. However, after review and consideration of the response submitted to support your position, it has been determined that the recommended discipline is appropriate.

You are hereby notified that you are discharged from your position of Deputy Sheriff, Item No. 2708A, with this Department, effective as of the close of business on August 9, 2013.

An investigation under File Number IV 2323204 [redacted], conducted by Internal Affairs Bureau, coupled with your own statements, has established the following:

[redacted]

[redacted]


[redacted]

IAB File Number 2323204

1. That in violation of Manual of Policy and Procedures Section(s) [redacted] and/or 3-01/100.35, False Information in Records; [redacted] on or about August 9, 2012 through August 10, 2012, you failed to assume the responsibilities of your position when you were absent without leave and failed to make a timely notification to your supervisor. Your conduct was not consistent with the Core values of the Department as you drove a vehicle while intoxicated, creating a hazard to yourself and the public. You

failed to exercise integrity and notify your supervisors of your absence instead of willfully seeking help from Deputy Ramon Gamez to log you onto the Mobile Digital Terminal, effectively aiding in creating a false official record; and/or potentially jeopardizing the safety and welfare of the public.

Additional facts and grounds for this decision are set forth in the Disposition Worksheet, Investigative Summary and Investigative Packet which are incorporated herein by reference.

In taking this disciplinary action, your record with this Department has been considered, and a thorough review of this incident has been made by Department executives, including your Unit and Division Commanders.

You may appeal the Department's action in this matter pursuant to Rules 4.02, 4.05 and 18.02 of the Civil Service Rules.

You may, if you so desire, within fifteen (15) business days from the date of service of this notice of discharge, request a hearing on these charges before the Los Angeles County Civil Service Commission, 222 North Grand Avenue, Los Angeles, California 90012.

The Sheriff's Department reserves the right to amend and/or add to this letter.

Sincerely,

LEROY D. BACA, SHERIFF

KEVIN A. GORAN, CHIEF
CENTRAL PATROL DIVISION

Note: Attached for your convenience are excerpts of the applicable areas of the Manual of Policy and Procedures and Civil Service Rules.

KAG:RAA:AEA:bs

c: Advocacy Unit
Kevin A. Goran, Chief, Central Patrol Division
James P. Wolak, Captain, East Los Angeles Station
Internal Affairs Bureau
Office of Independent Review (OIR)
Kevin E. Hebert, Captain, Personnel Administration